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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2010-87

12 **CHARISSE CHRISTIE MAGSAYSAY**  
13 **4222 Gardenia Ave.**  
**Long Beach, CA 90807**  
14 **Registered Nurse License No. 574903**

**ACCUSATION**

15 Respondent.  
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17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),  
20 Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about December 12, 2000, the Board issued Registered Nurse License Number  
23 574903 to Charisse Christie Magsaysay (Respondent). The license was in full effect at all times  
24 relevant to the charges brought herein. The license will expire on February 28, 2010, unless  
25 renewed.

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## JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY PROVISIONS

7. Code section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Code section 2762 states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

1 (b) Use any controlled substance as defined in Division 10  
2 (commencing with Section 11000) of the Health and Safety Code, or any dangerous  
3 drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an  
4 extent or in a manner dangerous or injurious to himself or herself, any other person,  
5 or the public or to the extent that such use impairs his or her ability to conduct with  
6 safety to the public the practice authorized by his or her license.

7 (c) Be convicted of a criminal offense involving the prescription,  
8 consumption, or self-administration of any of the substances described in  
9 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
10 record pertaining to, the substances described in subdivision (a) of this section, in  
11 which event the record of the conviction is conclusive evidence thereof.

12 (d) Be committed or confined by a court of competent jurisdiction for  
13 intemperate use of or addiction to the use of any of the substances described in  
14 subdivisions (a) and (b) of this section, in which event the court order of commitment  
15 or confinement is prima facie evidence of such commitment or confinement."

16 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
17 revoke a license on the ground that the licensee has been convicted of a crime substantially  
18 related to the qualifications, functions, or duties of the business or profession for which the  
19 license was issued.

20 10. California Code of Regulations, title 16, section 1444, states, in pertinent part:

21 "A conviction or act shall be considered to be substantially related to the qualifications,  
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
24 safety, or welfare.

25 11. Section 118, subdivision (b), of the Code provides that the suspension/expiration/  
26 surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
27 disciplinary action during the period within which the license may be renewed, restored, reissued  
28 or reinstated.

### COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case.

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**FIRST CAUSE FOR DISCIPLINE**

**(Criminal Convictions)**

13. Respondent is subject to disciplinary action under section under Code section 2761, subdivision (f), in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions or duties of a licensed registered nurse:

14. On June 12, 2008, in the Superior Court, County of Los Angeles, California, in the matter entitled *People of the State of California v. Magsaysay*, (Sup. Ct., Los Angeles Cty., 2008, Case No. VA104962), Respondent was convicted on her guilty plea, of a felony violation of Health & Safety Code section 11377(a), the illegal possession of crystal methamphetamine, a controlled substance. The circumstances of the crime are that, on March 19, 2008, Respondent was arrested on charges of being in the possession of methamphetamine, and admitted to law enforcement that she was under the influence of methamphetamine, a violation of Health & Safety Code section 11550(a). Respondent was seen throwing a small tin canister onto the street. This canister was recovered and found to contain a bag of methamphetamine. Respondent also refused the request of law enforcement on March 19, 2008 to submit to a urine test, which refusal can be used in a court of law as evidence of a consciousness of guilt by Respondent. She was placed on deferred entry of judgment for a period of two years, and ordered to enroll in and complete an approved controlled substance treatment program, and not to use or possess any narcotics.

15. On July 24, 2008, Respondent failed to appear at a hearing to show proof of enrollment in the diversion program and, consequently, the court terminated the deferred entry of judgment and Respondent was convicted of the unlawful possession of methamphetamine.

16. On July 31, 2008, Respondent appeared for a diversion violation hearing, and the deferred entry of judgment was reinstated by the Court.

17. On September 1, 2008, Respondent was stopped by an officer with the West Covina Police Department, for driving a vehicle with a suspended driver's license, and was arrested for showing symptoms of being under the influence of a controlled substance. She admitted to law enforcement that she had used methamphetamine on 08/31/08, and also stated that she began

1 using methamphetamine around eight years ago, when a doctor with whom she worked offered it  
2 to her to try. Further, she admitted being addicted to methamphetamine and was experiencing  
3 difficulty finding work as a registered nurse as a result of her addiction.

4 18. On October 28, 2008, the court terminated the deferred entry of judgment and  
5 reinstated criminal proceedings against Respondent, based upon the charge of being in the  
6 possession of methamphetamine, due to notice of a possible violation of Respondent's probation  
7 having been received.

8 19. On November 17, 2008, Respondent was ordered by the court to participate in a  
9 substance abuse counseling program, pay a restitution fine and other fines, register as a convicted  
10 narcotics offender, not use or possess any narcotics, except with a valid prescription, submit to  
11 periodic anti-narcotic tests, and was placed on formal probation for three years.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Conviction of a Crime Involving Narcotics)**

14 20. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
15 grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in that  
16 Respondent has been convicted of a crime involving narcotics, as more particularly set forth in  
17 Paragraphs 13-19, above.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Use of Narcotics to an Extent or in a Manner Dangerous or Injurious)**

20 21. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)  
21 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in  
22 that Respondent used methamphetamine, a controlled substance, to an extent, or in a manner  
23 dangerous or injurious to herself and others, as more particularly set forth in Paragraphs 14 and  
24 17, above.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Registered Nursing issue a decision:  
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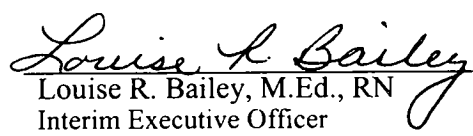
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1. Revoking or suspending Registered Nurse License Number 574903, issued to Charisse Christie Magsaysay;

2. Ordering Charisse Christie Magsaysay to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/19/09

  
Louise R. Bailey, M.Ed., RN  
Interim Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

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